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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1955

No. 443

NORMAN LUMBER COMPANY,
Petitioner

v.

UNITED STATES OF AMERICA,
Respondent

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT.

WALTER R. JONES, JR., and
WALTER R. JONES,
Counsel for Petitioner.

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1955

No.

NORMAN LUMBER COMPANY,

Petitioner

v.

UNITED STATES OF AMERICA,

Respondent

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT.

Norman Lumber Company prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Fourth Circuit entered in the above entitled case on June 13th, 1955.

Citations to Opinions Below

The opinion of the District Court (R. page 22) is reported in 127 Federal Supplement, page 518. The opinion of the Circuit Court of Appeals is printed in Appendix A, hereto, infra, page 1, and is unreported.

Jurisdiction

The judgment of the Circuit Court of Appeals was entered on June 13th, 1955, and the petitioner was granted

an extension of time to file petition for a writ of certiorari until and including October 11th, 1955. Jurisdiction of this court to review the judgment of the Circuit Court of Appeals by certiorari is conferred by Section 1254 (1) Title 28 U. S. Code Annotated and by Rule 19 of the Revised Rules of this court.

Question Presented

Must a Federal Judgment of Condemnation of land be indexed and cross-indexed in the county where the land lies in order to give notice to a purchaser for value without notice of the proceeding?

Note: All record references are to Brief and Appendix for Appellant filed in Circuit Court of Appeals.

Statutes Involved

United States Statutes:

1. The General Condemnation Act of August 1, 1888, 25 Stat. 357, 40 U. S. C. 258, printed in Appendix B hereto, infra. P. 12.

2. The General Conformity Act of August 1, 1888, 25 Stat. 357, 28 U. S. C. 1962. R. P. 18.

North Carolina Statutes:

1. G. S. 47-18, The Connor Act requiring recording of instruments affecting title to land. R. P. 12.

2. G. S. 1-228, Requiring recording and indexing judgments passing title to land. Printed in Appendix C hereto, infra. P. 12.

3. G. S. 1-237, The North Carolina Conformity Act. R. P. 17.

4. G. S. 1-233, Statutes governing the docketing of judgments. R. P. 14.

5. G. S. 1-234, Where and how docketed; lien. R. P. 14.

6. G. S. 8-19, Common Survey of contiguous tracts evidence. R. P. 18.

Statement

This case involves the right of the Norman Lumber Company, petitioner, to cut the timber on a certain tract of land in Montgomery County, North Carolina.

The Norman Lumber Company in good faith and for value purchased the timber on said land from the E. J. Bruton heirs in 1951, took deeds for the timber and duly recorded the same in the county where the land lies. The public records of Montgomery Count disclose that the E. J. Bruton heirs owned title to said lands and the timber thereon and that the title to the timber passed from them to the Norman Lumber Company.

The United States of America claimed title to the lands under a condemnation proceeding instituted and conducted in the District Court for the Middle District of North Carolina in Guilford County at Greensboro. The United States of America did not have its title recorded and indexed in Montgomery County, North Carolina, as required by the registration laws of said state in order to protect its title as against innocent purchasers for value.

It was conceded by the United States of America that the Norman Lumber Company was a purchaser for value without notice of the condemnation proceeding, therefore, it was stipulated that the rights of the parties should be determined as a matter of law upon the answer to the single issue above set forth.

Reasons for Granting the Writ

The question involved in this case has never been decided by the Supreme Court of the United States. It has never been previously presented to, or decided by any of the in-

ferior courts. It presents a new and important question for determination.

The judgment appealed from casts a cloud of illegitimacy on the title to each piece of privately owned property in the United States and is in our opinion contrary to law and is not supported by authority. The decision appealed from clashed with generally accepted land law as practiced throughout the nation and should be reversed.

Attorneys examining and passing upon land titles throughout the several states have in their practice almost universally relied upon the records in the county where the land lies. Certificates of title by attorneys have been based on the county records. Insurance companies, banking institutions and all other lending agencies have granted loans on the faith of such records and the certificates based thereon.

The very nature of the case presents a question of almost universal public interest. The decision as rendered by the lower court is in conflict with the State Statutes and, in effect, without so declaring, renders the registration laws of North Carolina and all of the other forty-seven states ineffective so far as the United States of America is concerned. It should be clearly determined by the highest court in the land whether or not the United States of America in acquiring title to lands, either by deed, or by condemnation proceedings, is required to follow out the State procedure and record and index the instrument by which it acquired title, in the county where the land lies, in order to give notice to innocent purchasers for value. Attorneys throughout the United States examining and passing upon titles, are entitled to know the ultimate answer to the above question so that it can be determined whether or not they will be required in passing upon land titles, not only to examine the county records, but also to visit and examine

the records of the several District Courts of the United States. Also all lending agencies and institutions as well as individuals holding securities based upon land titles are entitled to know the ultimate answer to the question involved in this case. The reasons therefor are too obvious for further elaboration.

Conclusion

It is respectfully submitted that the petition for a writ of certiorari in this case should be granted.

WALTER R. JONES, JR., and
WALTER R. JONES,
Counsel for Petitioner.

APPENDIX A

Judgment of the Circuit Court of Appeals for the Fourth Circuit entered June 13th, 1955.

PARKER, Chief Judge:

This is an appeal in action instituted by the United States to protect its right in the timber on a certain tract of land which it had condemned. The timber was that on an 89.6 acre tract in Montgomery County, North Carolina, condemned along with another tract in a condemnation proceeding in the United States District Court for the Middle District of North Carolina in the year 1936. That proceeding was entitled "*United States of America* v. 1053.2 *acres of land*", and all persons supposed to have any interest in the land were duly made parties thereto. The 89.6 acre tract was condemned as the property of Mary Ann Watkins, who was claiming under a deed from one Batton to W. E. Watkins. She was made a party individually and as executrix of W. E. Watkins. E. W. Bruton and other heirs at law of E. J. Bruton were also made parties to the proceeding on the ground that they owned adjoining property. The judgment was docketed and indexed in the office of the Clerk of the United States District Court where it was rendered and was docketed, indexed and cross indexed in the office of the Clerk of the Superior Court of Montgomery County, North Carolina, but the names of the Bruton heirs did not appear there in the indexing and cross indexing. The judgment was not registered in the office of the Register of Deeds of Montgomery County, although the judgment in terms required that this be done.

The timber is claimed by the Norman Lumber Company under a timber deed from the Bruton heirs executed in the year 1951, fifteen years after the condemnation. The company contends that the 89.6 acre tract was part of a 356

acre tract belonging to the Bruton heirs and that, while the judgment in the condemnation proceeding is binding upon these heirs since they were parties to the proceeding, it is not binding on the lumber company because, while the judgment was recorded in the office of the Clerk of the Superior Court of Montgomery County, it was not there indexed and cross indexed as to the heirs. It was agreed between the parties that judgment should be entered upon the pleadings and stipulations upon the answer given by the court to two questions, viz.:

> "(1) Must a federal judgment of condemnation of land be indexed and cross indexed in the county where the land lies in order to give notice to a purchaser for value without notice of the proceeding?
>
> "(2) Were the paper writings offered in evidence by plaintiff sufficient as matter of law to put the defendant Bruton heirs on notice that a portion of the lands within the boundaries of the 356 acre tract claimed by them was being condemned by the United States Government?"

The trial judge gave a negative answer to the first of these questions and an affirmative answer to the second, and entered judgment for the United States from which the lumber company has appealed. No question is raised on the appeal as to the answer to the second question, nor does the lumber company contend here, as it did in the lower court, that the judgment should have been recorded in the office of the Register of Deeds of Montgomery County. The sole question before us is whether the rights of the government under the condemnation proceeding are defeated as to the lumber company, which obtained a conveyance of the timber 15 years later, by reason of the fact that the judgment of condemnation was not indexed and cross indexed as to the Bruton heirs. We think as did

the judge below that this question must be answered in the negative.

There can be no question but that the condemnation proceeding, which was a proceeding in rem, gave title to the United States good against the world, as well as against the Bruton heirs who were parties to the proceeding. "Such an exercise of eminent domain founds a new title and extinguishes all previous rights". *A. W. Duckett & Co., Inc.* v. *United States*, 266 U.S. 149, 151; *United States v. Dunnington*, 146 U.S. 338, 350; *Dupasseur* v. *Rochereau*, 21 Wall. 130, 135-136; *United States* v. *Winn*, 83 F. Supp. 172. Upon the entry of the judgment and the payment into court of the compensation awarded for the taking of the land, the United States unquestionably acquired good title thereto. This title could not be divested or impaired except by law of the United States, and we find nothing in any federal statute which could be given that effect. The North Carolina statutes as to the recording and cross indexing of judgments, have no application to federal judgments of condemnation unless an act of Congress so provides, and we find no such provision. Certainly there is nothing to that effect in the Act of August 1, 1888, 40 USC 258, the act which prescribed condemnation procedure at the time of the condemnation here. That section provided:

> "The practice, pleadings, forms and modes of proceedings in causes arising under the provisions of section 257 of this title shall conform, as near as may be, to the practice, pleadings, forms and proceedings existing at the time in like causes in the courts of record of the State within which such district court is held, any rule of the court to the contrary notwithstanding."

This was merely extending the provisions of the old Conformity Act of June 1, 1872, 17 Stat. 196, 197, 28 USC

724, to condemnation proceedings. It related to court procedure, not to registration of muniments of title. Any provision, even of a state condemnation law, "relating to any subject other than practice, pleadings, forms and proceedings is * * * not applicable in a federal condemnation proceeding". *United States* v. *Certain Lands, etc.*, 39 F. Supp. 91, 92; *Chappell* v. *United States*, 160 U.S. 499, 513. Under the old Conformity Act of 1872, 28 USC 724, the rule was that, even as to practice, pleadings and forms and modes of procedure, the statute applied only to proceedings for procuring the judgment, not to those subsequent thereto. *Friedly* v. *Giddings*, 119 F. 438, 441, aff. 2 Cir. 128 F. 355. That docketing and cross indexing of the judgment of condemnation in accordance with state law for the protection of possible purchasers from the condemnee was not regarded as a part of the procedure provided for by the old condemnation statute is properly inferable from the fact that no provision therefor is contained in Rule 71A which took the place of the statutory procedure.

Appellant relies upon the Lien of Judgments Act of August 1, 1888, 25 Stat. 357 codified in 28 USC 1962, which provides that judgments rendered in United States District Courts shall be a lien on property located in the state "to the same extent and under the same conditions" as state court judgments, upon provision being made by the law of the state for the docketing of such District Court judgments.* North Carolina has made statutory provision

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* 28 USC 1962 is as follows: "Every judgment rendered by a district court within a State shall be a lien on the property located in such State in the same manner, to the same extent and under the same conditions as a judgment of a court of general jurisdiction in such State, and shall cease to be a lien in the same manner and time. Whenever the law of any State requires a judgment of a State court to be registered, recorded, docketed or indexed, or any other act to be done, in a particular manner, or in a certain office or county or parish before such

for the docketing of such judgments. General Statutes of North Carolina chapter 1, sec. 237. State court judgments become liens on real estate only when docketed in the office of the Clerk of the Superior Court in the county where the real estate is situate (G.S. 1-234) and then only if properly indexed and cross indexed showing the name of the judgment debtor. *Southern Dairies* v. *Banks*, 4 Cir. 92 F. 2d 282, cert. den. 302 U.S. 761; *Jones* v. *Currie*, 190 N.C. 260, 129 S.E. 605; *Wilkes* v. *Miller*, 156 N.C. 428, 72 S.E. 482; *Dewey* v. *Sugg*, 109 N.C. 328, 13 S.E. 923, 14 L.R.A. 393; *Holman* v. *Miller*, 103 N.C. 118, 9 S.E. 429, 430. The Lien of Judgments Act, however, has no application to a judgment for the condemnation of land under which title is acquired by the condemnor. It relates to the acquisition of liens upon the lands of those against whom judgments are rendered, not to the transfer of the lands as a result of condemnation. It is worth noting that Congress recognized the distinction in that it passed on the same day two separate and distinct statutes with respect to these matters. Chapter 728 of the Statutes at Large of 1888 was the Condemnation Act, section 2 of which provided for conformity to state practice in condemnation proceeding; chapter 729 was the Lien of Judgments Act. If it had been the intention that the provisions of the Lien of Judgments Act apply to proceedings under the Condemnation Act it would have been easy enough to so provide; and the fact that no such provision was made indicates that nothing of the sort was intended. The language of the Lien of Judgments Act is that "Judgments and decrees rendered in a circuit or district court of the United States within any state shall be liens on property etc." There is nothing in this to sug-

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lien attaches, such requirements shall apply only if the law of such State authorizes the judgment of a court of the United States to be registered, recorded, docketed, indexed or otherwise conformed to rules and requirements relating to judgments of the courts of the State."

gest that the validity of judgments of condemnation shall be dependent upon their being docketed in accordance with state law or otherwise.

Whether docketing and cross indexing of federal judgments of condemnation with state court records should be required as a condition of validity as against subsequent purchasers from the condemnee is a matter for Congress, and, so far, Congress has not seen fit to take action with regard to the matter. As was well said by the learned judge below:

> "It is true that it imposes a severe hardship on attorneys undertaking to examine titles, to have to inquire at the office of the Clerk of the United States District Court before he can be sure that there is no condemnation judgment entered there which is not recorded and cross indexed in the county where the land lies, but this inconvenience cannot outweigh the public interest in safeguarding and protecting the property of the United States in accordance with the laws of the United States. The United States cannot always have watchers present to observe trespassers who may go upon public lands and commit waste, while the private owner does have an opportunity to keep an eye on his property. The enormous amount of land owned by the United States for various Governmental purposes is such that its disposition cannot be effected in any manner except under a clear mandate of the law duly enacted by Congress."

There was no error and the judgment of the District Court will be affirmed.

Affirmed.

APPENDIX B

The General Condemnation Act of August 1, 1888, 25 Stat. 357, 40 U.S.C. 258: The practice, pleadings, forms and modes of proceedings in causes arising under the provisions of section 257 of this title shall conform, as near as may be, to the practice, pleadings, forms and proceedings existing at the time in like causes in the courts of record of the state within which such district court is held, any rule of the court to the contrary not withstanding.

APPENDIX C

North Carolina Statute, G. S. 1-228: Regarded as a deed and registered.—Every judgment in which the transfer of title is so declared, shall be regarded as a deed of conveyance, executed in due form and by capable persons, notwithstanding the want of capacity in any person ordered to convey, and shall be registered in the proper county, under the rules and regulations prescribed for conveyances of similar property executed by the party. The party desiring registration of such judgment must produce to the register a copy thereof, certified by the clerk of the court in which it is enrolled, under the seal of the court, and the register shall record both the judgment and certificate. All laws which are passed for extending the time for registration of deeds include such judgments, provided the conveyance, if actually executed, would be so included. (1850, c. 107, ss. 2, 4; R. C. c. 32, ss. 25, 27; 1874-5, c. 17, ss. 2, 4; Code, ss. 427, 429; Rev., ss. 567, 568; C. S., s. 608.)

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In the Supreme Court of the United States

OCTOBER TERM, 1955

No. 443

NORMAN LUMBER COMPANY, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

OPINION BELOW

The opinion of the court of appeals is reported at 223 F. 2d 868 (Pet. App. 6-11). The opinion of the district court is reported at 127 F. Supp. 518.

JURISDICTION

The judgment of the court of appeals was entered on June 13, 1955 (Pet. App. 6). The time for filing a petition for certiorari was extended to October 11, 1955, and the petition for a writ of cer-

tiorari was filed October 3, 1955. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

QUESTION PRESENTED

Whether the title of the United States to land which was acquired by condemnation can be divested by a subsequent conveyance by the condemnee because of failure of the United States to register the condemnation judgment in accordance with the state recordation statute.

STATEMENT

The factual background for this suit by the United States to enjoin petitioner from trespassing upon and cutting and removing timber from lands owned by the United States is as follows:

In 1936, the United States condemned the tract of land here involved in connection with the acquisition of a large area of land in North Carolina for use as the Pisgah National Forest. The tract contained 89.6 acres and was located in Montgomery County. Mary Ann Watkins was named as the owner of the record title. The heirs of E. J. Bruton were also named as defendants and designated as owners of adjoining lands because the perimeter description contained calls to corners and boundaries common to the lands of Bruton. The Bruton heirs did not assert in the condemnation proceeding any claim of title to the lands involved. The condemnation judgment was recorded in the office of the Clerk of the United States District Court in which the suit was brought, and was duly indexed and cross-indexed as to the Bruton heirs.

It was also docketed, indexed and cross-indexed in the office of the Clerk of the Superior Court of Montgomery County, North Carolina, but was not there indexed and cross-indexed as to the Bruton heirs (R. 19-20).[1] The judgment was not registered in the office of the Register of Deeds of Montgomery County, despite a direction therein that this be done.

By warranty deed executed in 1951, the heirs of E. J. Bruton conveyed to petitioner the timber on a tract of land containing 356 acres, which included the 89.6 acres here involved (R. 20, 23). Thereafter petitioner cut down and removed timber from the 89.6 acre tract, claiming to be an innocent purchaser for value without notice of any adverse claim to the timber. In 1953, this action was instituted resulting in a judgment enjoining petitioner and the Bruton heirs from trespassing, or in any manner interfering with the Government's ownership and possession of the land (R. 21). The district court held that whatever title the Brutons had had in this tract had been divested by virtue of the condemnation proceeding, and that it was immaterial that the condemnation judgment had not been indexed and cross-indexed under appropriate state procedures.

The court of appeals affirmed, holding that the rights of the United States under the condemnation proceeding are not defeated as to the petitioner, which obtained a conveyance of the timber

[1] Record references are to Brief and Appendix for Appellant filed in the court of appeals.

fifteen years later, by reason of the fact that the judgment of condemnation was not indexed and cross-indexed as to the Bruton heirs in Montgomery County.

ARGUMENT

The decision of the court of appeals is correct and represents simply another application of the well-settled principle, that in a validly conducted condemnation proceeding, the United States acquires a complete and new title to the land condemned against all the world. *Duckett & Co.* v. *United States*, 266 U.S. 149, 151; *United States* v. *Dunnington*, 146 U.S. 338, 350; *Meadows* v. *United States*, 144 F. 2d 751, 752-753. Such title does not arise from nor depend upon state law or state procedure, and a title thus acquired cannot be divested out of the United States by force of state law without the consent of Congress. *Utah Power & Light Co.* v. *United States*, 243 U.S. 389, 403-405; *Camfield* v. *United States*, 167 U.S. 518, 526. Congress can, of course, provide that state laws relating to the docketing of judgments be complied with, but, as the court of appeals pointed out (Pet. App. 8-11), it has not seen fit to do so.

The petitioner's claim that the decision is erroneous is not based upon any attack on the legal reasoning of both courts below, but is founded merely on the assertion that persons examining titles have established a practice of relying upon county records and this practice, it is said, creates a question of grave importance. That there is no real problem, however, is demonstrated by the fact that despite the great number of condemnation proceed-

ings by the United States in the past twenty years, particularly in connection with the prosecution of World War II, the instant case, as petitioner itself recognizes (Pet. 3-4), is the only one to arise.[2] The policy question of weighing the considerations in favor of and those opposed to applying the state law is, as the court of appeals correctly observed (Pet. App. 11), one for Congress and not for the courts.

Finally, petitioner's predicament is attributable to its own actions in dealing with parties who had no interest in the subject land, against whom the condemnation judgment was conclusive, and to whom they should look for redress.

CONCLUSION

The decision below is clearly correct and the petition for a writ of certiorari should be denied.

Respectfully submitted,

SIMON E. SOBELOFF,
Solicitor General.

PERRY W. MORTON,
Assistant Attorney General.

ROGER P. MARQUIS,
ELIZABETH DUDLEY,
Attorneys.

OCTOBER 1955.

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[2] Of course, in the vast majority of cases, the governmental possession will be so obvious to anyone as to give notice of the claim to title.

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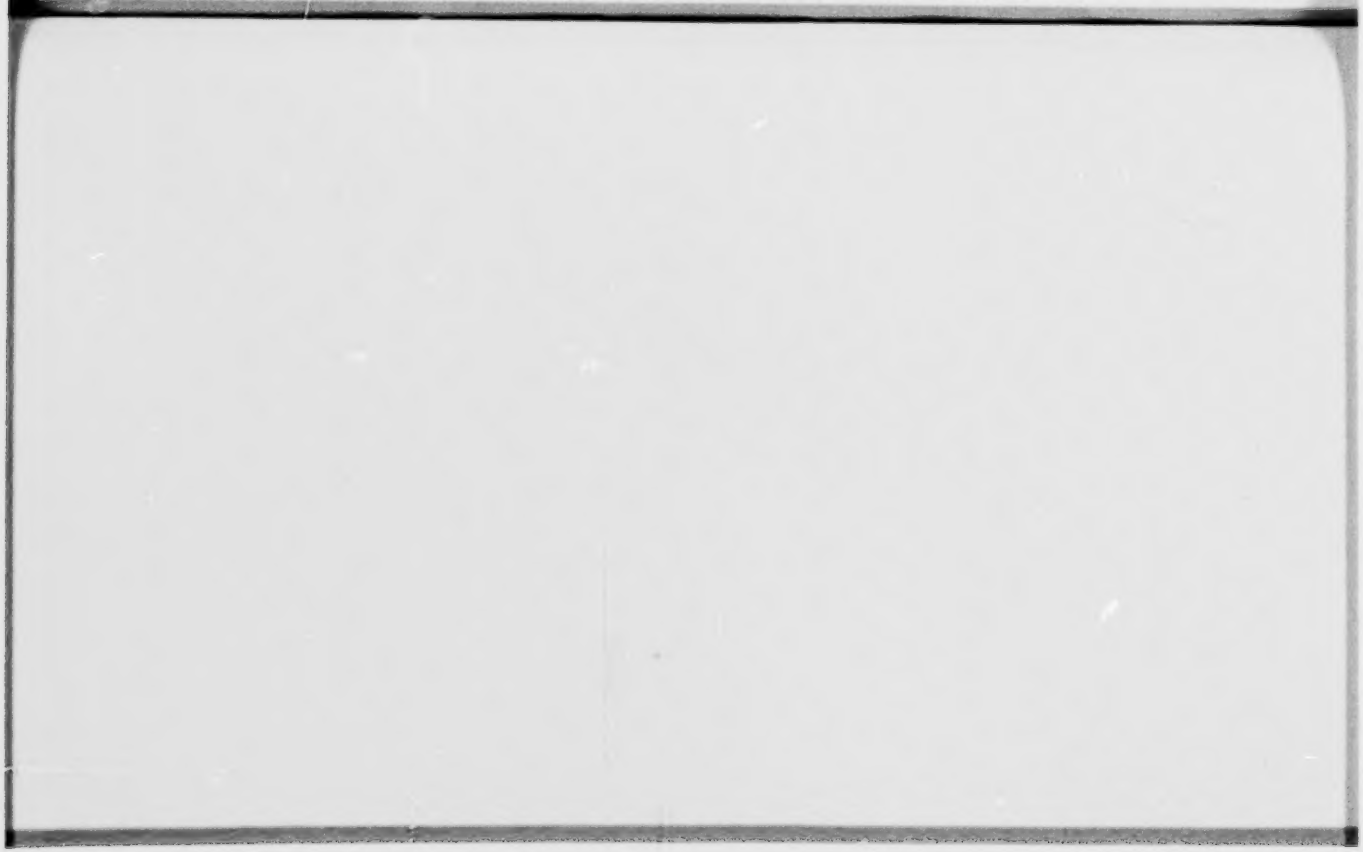
ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

REPLY BRIEF FOR THE PETITIONER NORMAN LUMBER COMPANY

WALTER R. JONES, JR., and
WALTER R. JONES,
Counsel for Petitioner.



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REPLY BRIEF FOR THE PETITIONER NORMAN LUMBER COMPANY

Question Presented

The fallacies in the argument set out in the brief for the United States in opposition to the petition for certiorari are as follows:

First, it begs the question by stating the issue differently from that agreed upon, and

Second, the cases cited are in point only on such changed issue.

The stipulation agreed upon established the fact that the Norman Lumber Company was the purchaser for value without notice of the proceeding in question. Both parties are bound thereby. It was nowhere stipulated or

conceded that the United States had acquired title complete as against all the world. It was not a question of *divesting* the United States of land that it owned, but a question of whether or not it owned it in the first place as against an innocent purchaser for value without notice of the proceeding.

Only in cases of a declaration of taking does the United States acquire title absolute and good as against all the world. Such proceeding is resorted to only in cases of emergency. The proceeding in question was not an emergency taking and it cannot reasonably be said that the title acquired by the United States in such condemnation proceeding is good as against all the world—even though it may be a complete or new title as against all parties to the proceeding. Certainly it cannot be contended that such title is good against that part of the world not parties to the proceeding. Only by proper registration can it be made so.

The issue in this case—"Must a Federal Judgment of condemnation of land be indexed and cross-indexed in the county where the land lies in order to give notice to a purchaser for value wit[illegible]ut notice of the proceeding", presents a new and undecided question for the determination of the court. It was so considered by all on the hearing in the court below. The Opposition Brief of the United States here concedes it when it says, "The instant case as petitioner itself recognizes is the only one to arise" out of the vast number of condemnation proceedings. Thus it is conceded by all that the issue is new. It thereby inevitably follows that the citations relied upon in the opposition brief of the United States are not in point and are not decisive of the question involved. The several cases relied upon by the United States have been analyzed in the petitioner's Reply Brief in the court below and no one of the authorities is decisive of, or in point with the issue to be

answered here. It is assumed in each and all of them that the United States had acquired title against all the world. If it were conceded that the United States Government got title to the land against all the world, then there would be nothing to decide in this case.

It is true that this is the first case to reach this Court involving the issue to be answered. It is the first time it has come to the attention of the court that the United States has failed to follow out the direct and positive order of its own court to properly record its muniment of title in the county where the land lies; and it is probably the first time the United States has failed to record its muniment of title by registration as required by appropriate statutes enacted for the protection of innocent purchasers for value. The registration statutes have been enacted for the protection of the innocent—that is, for the protection of that part of the world not parties to the contract or proceeding. The soundness of a large part of the business structure in the United States is based on the faith of the registration laws and the reliance upon their integrity.

There is no basis for the assertion in the opposition brief that the petition does not challenge the legal reasoning of the courts below. The petitioner deemed it inappropriate to argue the merits of the case in its petition for certiorari, but only set forth the importance of having an adjudication made by this Court. We most certainly challenge the reasoning of the courts below—why should both the courts below advance as a reason for their opinion that "The United States cannot always have watchers present to observe trespassers who may go upon public lands and commit waste while the private owner does have an opportunity to keep an eye on his property".

We challenge this reasoning as unsound and only as an excuse for the failure of the United States to properly record its title, for it is common knowledge that when the

United States once properly records its muniment of title—either deed or decree, then and from thenceforward its title is fully protected without "watchers" and it cannot be divested by adverse possession or otherwise against its will.

The most vital part of the procedure in the condemnation of land is the proper recordation and indexing of the decree. It is just as vital as the recording and indexing of deeds. It is an argument without reason or merit that the United States in a condemnation proceeding acquire title to the land against all the world at the instant the decree is signed. If such were true it would not be necessary for the judgment to be indexed and cross-indexed even in the court where entered. It is humanely impossible to index and cross-index the judgment instantaneously with the signing thereof. Thus it is obvious that so far as innocent purchasers for value are concerned they cannot be put on notice the instant of signing the judgment. The judgment based on the proceeding is the muniment of title of the United States to the land just as a deed executed to it by the owners of the land would be. The judgment of condemnation in question so declared. We submit that no court in a well considered opinion could reasonably hold that such muniment of title, whether decree or deed, unrecorded and unindexed, would support an action against an innocent purchaser for value of the same land who first recorded his deed or other muniment of title thereto. It would not only be contrary to all the statutes of recordation, but contrary to all principles of equity.

Respectfully submitted,

WALTER R. JONES, JR., and
WALTER R. JONES,
Counsel for Petitioner.